

DTXCF 8.4.1.1  
05/19/92

*Alhino Proventis*  
~~US Bank~~

Documents Produced to the  
U.S. Environmental Protection Agency  
On April 24, 2008  
Pursuant to the 104(e) Request

**U.S.D.C.'s Order Denying Quendall Terminals' Motion for Partial  
Summary Judgment and Granting Reilly's Cross-Motion for  
Summary Judgment**

USEPA SF



1354226

Honorable Thomas S. Zilly

FILED ENTERED  
LODGED RECEIVED

MAY 19 1992

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

QUENDALL TERMINALS, a Joint ) No. C90-1768  
Venture, formed by Altino )  
Properties, Inc., a Washington ) (~~PROPOSED~~)  
corporation, and Puget Timber, ) ORDER DENYING PLAINTIFF'S  
Inc., a Washington ) MOTION FOR PARTIAL SUMMARY  
corporation, ) JUDGMENT AND GRANTING  
Plaintiff, ) DEFENDANT'S CROSS-MOTION  
FOR SUMMARY JUDGMENT  
vs. )  
REILLY INDUSTRIES, INC. an )  
Indiana corporation and )  
successor to REILLY TAR & )  
CHEMICAL CORP., )  
Defendant and )  
Counterclaimant, )  
vs. )  
QUENDALL TERMINALS, et al., )  
Counterclaim )  
Defendants. )

THIS MATTER coming on regularly before the  
undersigned judge of the above court upon plaintiff's motion

(PROPOSED) ORDER DENYING PLAINTIFF'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
AND GRANTING DEFENDANT'S CROSS-MOTION  
FOR SUMMARY JUDGMENT - 1

AMHS0378\7962-2

STOEL RIVES BOLEY JONES & GREY  
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1 for partial summary judgment and defendant's cross-motion for  
2 summary judgment. The court having reviewed the following  
3 documents:

- 4 1. Plaintiff's Motion for Partial Summary  
5 Judgment;
- 6 2. Plaintiff's Memorandum of Points and  
7 Authorities in Support of Motion for  
8 Partial Summary Judgment;
- 9 3. Affidavit of Sigurd B. Borgersen, with  
10 accompanying exhibits;
- 11 4. Defendant's Cross-Motion for Summary  
12 Judgment;
- 13 5. Defendant's Memorandum of Points and  
14 Authorities in Opposition to Plaintiff's  
15 Motion for Partial Summary Judgment and in  
16 Support of Defendant's Cross-Motion for  
17 Summary Judgment;
- 18 6. Declaration of Donald O. Norman, with  
19 accompanying exhibits;
- 20 7. Declaration of Ann M. Holmes in Support of  
21 Defendant's Cross-Motion for Summary  
22 Judgment, with accompanying exhibits;
- 23 8. Declaration of Patricia Morgan in Support  
24 of Defendant's Cross-Motion for Summary  
25 Judgment, with accompanying exhibits;
- 26 9. Memorandum in Opposition to Defendant's  
Motion for Summary Judgment and in Reply to  
Defendant's Opposition to Plaintiff's  
Motion for Partial Summary Judgment;
10. Affidavit of Sigurd B. Borgersen in Support  
of Memorandum in Opposition to Defendant's  
Motion for Summary Judgment and in Reply to  
Defendant's Opposition to Plaintiff's  
Motion for Partial Summary Judgment, with  
accompanying exhibits; and
11. Defendant's Reply Memorandum in Support of  
Cross-Motion for Summary Judgment

(PROPOSED) ORDER DENYING PLAINTIFF'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
AND GRANTING DEFENDANT'S CROSS-MOTION  
FOR SUMMARY JUDGMENT - 2  
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1  
2 and having reviewed the files and records herein and being  
3 fully advised in the premises finds that no genuine issue of  
4 material fact exists as to the matters presented by plaintiff's  
5 motion and defendant's cross-motion and that defendant is  
6 entitled to judgment as a matter of law; now, therefore, it is  
7 hereby

8 ORDERED that the plaintiff's motion for summary  
9 judgment is DENIED; and it is further

10 ORDERED that defendant's cross-motion for summary  
11 judgment is GRANTED. Plaintiff's Complaint is hereby dismissed  
12 in its entirety. The Supplemental Agreement is enforceable and  
13 allocates all responsibility to Quendall, as well as requiring  
14 Quendall to indemnify defendant, for all costs associated with  
15 the clean up of real property conveyed by the parties' real  
16 estate contract and all costs associated with the clean up of  
17 other properties, including but not limited to those adjacent  
18 properties owned by the State of Washington.

19 DONE IN OPEN COURT this 19<sup>th</sup> day of May, 1992.

20  
21   
HONORABLE THOMAS S. ZILLY

22 Presented by:

23 STOEL RIVES BOLEY JONES & GREY

24 By 

Donald B. Myers, WSBA #10690

Ann M. Holmes, WSBA #15786

Attorneys for Defendant/

Counterclaimant Reilly

Industries, Inc.

(PROPOSED) ORDER DENYING PLAINTIFF'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
AND GRANTING DEFENDANT'S CROSS-MOTION  
FOR SUMMARY JUDGMENT - 3

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